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Attorneys for Plaintiff and the Class

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**Loretta Williams**, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

**DDR Media, LLC, and Lead Intelligence,  
Inc.**

Defendants.

Case No. 3:22-cv-03789-SI

**JOINT CASE MANAGEMENT  
STATEMENT**

Judge: Hon. Susan Illston

Plaintiff Loretta Williams (“Plaintiff” or “Williams”) and Defendants DDR Media, LLC d/b/a Royal Marketing Group (“Royal Marketing”) and Lead Intelligence, Inc. d/b/a Jornaya (“Jornaya”, and collectively with Royal Marketing, “Defendants”) jointly submit this Joint Case Management Statement pursuant to the Standing Order for All Judges of the Northern District of California, Rule 26(f) of the Federal Rules of Civil Procedure, and Civil Local Rule 16-9.

1 1. Jurisdiction & Service

2 Plaintiff's Position: This Court has subject matter jurisdiction under the Class Action  
3 Fairness Act, 28 U.S.C. § 1332(d), *et seq.* ("CAFA"), because the class consists of over 100  
4 people, at least one member of each class is from a State other than the state of the Defendants,  
5 and the amounts in controversy are over \$5,000,000. Further, none of the exceptions to CAFA  
6 jurisdiction apply.

7 Defendants' Position:

8 *Royal Marketing's Position:* Plaintiff's named the incorrect party and agreed to correct  
9 same. DDR Media, LLC, -- at all relevant times was t/d/b/a Royal Marketing is currently waiting  
10 to be served properly under the correct tradename Royal Marketing Group. Plaintiff has agreed to  
11 amend the Complaint.

12 *Jornaya's Position:* Jornaya does not dispute that it was properly served and is not aware  
13 of any party not yet served. Jornaya does not currently dispute this court's jurisdiction. Jornaya  
14 disputes DDR Media's position regarding the tradename under which it conducted business, and  
15 reserves all rights, claims, and defenses.

16  
17 2. Facts

18 Plaintiff's Position: This case challenges Defendants Royal Marketing and Jornaya's  
19 violations of the California Invasion of Privacy Act, Cal. Penal Code 631 ("CIPA"). Specifically,  
20 Plaintiff Loretta Williams ("Williams" or "Plaintiff") alleges that Defendants violated CIPA by  
21 unlawfully intercepting and recording her communications on Royal Marketing's website absent  
22 any consent, thereby violating CIPA's prohibition of wiretapping and California's constitutional  
23 right to privacy. Accordingly, Plaintiff, on behalf of herself and a Class of similarly situated  
24 individuals, brings this action to put an end to Defendants' serial violations of CIPA.

25 Defendants' Position:

26 *Royal Marketing's Position:* Royal Marketing denies the Plaintiffs' allegations and as will  
27  
28

be further articulated in its response to the First Amended Complaint, pending filing of the amended complaint and service by the Plaintiff. Royal Marketing is a customer of Jornaya. This action arises from the implementation of Jornaya's Create JavaScript software on its website snappyrent2own.com.

*Jornaya's Position:* Plaintiff alleges that DDR Media LLC's use of Jornaya's Javascript on its website resulted in the unlawful interception and recording of her communications without her consent. Jornaya denies that it violated CIPA or acted unlawfully.

### 3. Legal Issues

#### Plaintiff's Position:

- (1) Whether Jornaya unlawfully intercepted Plaintiff's communications on the Royal Marketing website;
- (2) Whether Jornaya obtained consent from all parties to intercept and record the communications at issue;
- (3) Whether Royal Marketing aided, agreed, or conspired with Jornaya to unlawfully intercept, read, or learn the contents of Plaintiff's communications;
- (4) Whether the proposed class can be certified as a class action in accordance with Federal Rules of Civil Procedure 23;
- (5) Whether Plaintiff and the other members of the Class are entitled to statutory damages; and
- (6) Whether Defendants should be enjoined from intercepting and recording future communications on the Royal Marketing website absent any consent.

#### Defendants' Position:

*Royal Marketing's Position:* Royal Marketing is unaware of Jornaya's proprietary systems and processes, utilized them pursuant to the terms and conditions they establish, and – if liable of anything, is entitled to Indemnity by them. Moreover, Royal Marketing contests the requisite

1 number of putative Plaintiffs as to them given this was – essentially, a one-off use of the subject  
2 Platform.

3 *Jornaya's Position:* Jornaya does not dispute Plaintiff's identification of the key legal  
4 issues in this action. Jornaya does not agree that it owes indemnification to DDR Media LLC.

#### 5 4. Motions

6 Plaintiff's Position: Plaintiff anticipates moving for class certification following class  
7 discovery and potentially moving for summary judgment in favor of herself and the class  
8 members. Discovery motions may also be potentially necessary.

#### 9 Defendants' Position:

10 *Royal Marketing's Position:* Royal Marketing: There are currently no outstanding Motions  
11 and Defendant reserves the right to file a Motion to Dismiss in response to Plaintiff's First Amended  
12 Complaint and discovery motions as necessary.

13 *Jornaya's Position:* Jornaya intends to file a motion to dismiss the Complaint, or the First  
14 Amended Complaint if Plaintiff amends her Complaint prior to the filing of such motion, and  
15 anticipates opposing class certification. Jornaya may move for summary judgment or summary  
16 adjudication and may also bring discovery motions, if any are necessary.

#### 17 5. Amendment of Pleadings

18 The parties request a deadline to amend pleadings to be set following a reasonable period  
19 of discovery to ascertain whether any additional culpable parties exist. A deadline of 120 days  
20 following commencement of discovery regarding class related issues would suffice.

#### 22 6. Evidence Preservation

23 The Parties certify that they have reviewed the ESI Guidelines. During the Rule 26(f)  
24 conference, counsel for the Parties discussed the potential ESI implicated in this case. The Parties  
25 confirm that any relevant ESI is being appropriately preserved. Should discovery proceed, the  
26 Parties are committed to working together to reduce the costs of ESI.

Royal Marketing has requested a Stop, Hold, Warn as to those documents and materials Plaintiff believes are relevant specifically from them because its' role in this – other than availing itself to co-defendants platforms, services, is nebulous.

## 7. Disclosures

The parties have agreed to exchange initial disclosures pursuant to the requirements of Fed. R. Civ. P. 26 within fourteen (14) days following the issuance of the Rule 16 Scheduling Order.

It is Jornaya's position that, in the interests of conserving the parties' and judicial resources, all discovery, including initial disclosures, should await resolution of Defendants' motion(s) to dismiss and any subsequent amendment of the complaint.

## 8. Discovery

No discovery has been served thus far and the parties have not identified any discovery disputes. Pursuant to Fed. R. Civ. P. 26(f), the parties submit the following discovery plan:

**(1) Subjects on which discovery may be needed.** Discovery will be needed on the allegations asserted in the first amended complaint and the legal issues set forth above.

**(2) Issues relating to disclosure or discovery of electronically stored information.** If certain discovery is to be produced in electronic form, the parties have agreed to meet and confer, as necessary, to resolve any issues concerning electronic discovery as they arise.

**(3) Issues relating to claims of privilege or of protection as trial-preparation material.** The parties agree to prepare and produce a privilege log with respect to all documents, electronically stored information, things and oral communications withheld on the basis of a claim of privilege or work product protection except the following: written and oral communications between a party and its counsel after commencement of the action and work product material created after commencement of the action.

**(4) Changes in limitations on discovery.** The parties do not propose any changes to the

limitations on discovery imposed under the Federal Rules of Civil Procedure or the Civil Local Rules.

**(5) Orders that should be entered by the court.** The parties anticipate that a protective order governing the treatment of confidential information will be required and will submit a proposed order in the form of the Northern District's model order.

#### 9. Class Actions

The Parties set forth their positions with respect to discovery in Section 17 below.

#### 10. Related Cases

The parties are unaware of any pending cases related to this action.

#### 11. Relief

Plaintiff's Position: Plaintiff seeks statutory damages for Defendants alleged violations of CIPA, which provides for \$5,000 per violation, together with injunctive relief and attorneys' fees and costs. Damages will be calculated depending upon the number of class members and the number of violations following discovery.

#### Defendants' Position:

*Royal Marketing's Position:* Royal Marketing contends it has no liability, and that any liability, if any, found herein is co-defendants.

*Jornaya's Position:* Jornaya denies that Plaintiff and the putative class are entitled to the relief sought in the complaint. Jornaya also denies that it owes any indemnification to DDR Media LLC.

#### 12. Settlement and ADR

The Parties have complied with ADR L.R. 3-5. The Parties anticipate attending private,

1 non-binding mediation before a mutually agreeable mediator. Settlement discussions have not  
2 occurred but the parties are open to discussing settlement informally at any appropriate time.

3  
4 13. Consent to Magistrate Judge For All Purposes

5 All Parties do not consent to have a magistrate judge conduct all further proceedings.

6  
7 14. Other References

8 The parties agree that the case is not suitable for reference a special master or the Judicial  
9 Panel on Multidistrict Litigation.

10  
11 15. Narrowing of Issues

12 The Parties agree, to the extent necessary, to explore facts that can be proven by  
13 stipulation at the appropriate time.

14  
15 16. Expedited Trial Procedure

16 The Parties do not believe that this case is suitable for an expedited trial.

17  
18 17. Scheduling

19 Plaintiff's and Defendant Royal Marketing's Position: Discovery should proceed with  
20 respect to both class certification and merits issues for a period of ten (10) months.<sup>1</sup> The first eight  
21 (8) months will be devoted to written and oral fact discovery. The final two (2) months of this  
22 period will be devoted to experts. Following the close of this initial ten-month discovery period,  
23 the Parties will brief class certification. Following a ruling on class certification the Court would

24 \_\_\_\_\_  
25 <sup>1</sup> Plaintiff opposes Defendant Jornaya's request to delay discovery pending its forthcoming  
26 motion to dismiss. This case has already been pending for nearly nine (9) months. Further delay  
27 only serves to prejudice Plaintiff's ability to obtain all relevant discovery to litigate this case  
through class certification and trial.

1 hold a subsequent case management conference and establish a schedule for the remainder of the  
 2 case, including a period for any remaining merits-based discovery, and dates for summary  
 3 judgment briefing, pre-trial conferences, and the trial.

4 Plaintiff and Defendant Royal Marketing propose the following case schedule.

<u><b>Event</b></u>	<u><b>Proposed Deadlines</b></u>
Motion to Amend Pleadings and/or Add Parties	July 29, 2023
Deadline to Complete Fact Discovery	November 30, 2023
Plaintiff's Expert Disclosures Due	December 15, 2023
Defendants' Expert Disclosures Due	December 29, 2023
Rebuttal Expert Disclosures Due	January 12, 2024
Complete Expert Discovery	January 31, 2024
Plaintiff to File Motion for Class Certification	February 9, 2024
Defendants to File Opposition to Class Certification	March 1, 2024
Plaintiff to File Reply ISO Motion for Class Certification	March 15, 2024
Subsequent Case Management Conference	TBD: to be set after a ruling on class certification
File Dispositive Motions	TBD: to be set after a ruling on class certification



Defendant Jornaya's Position:

Defendant Jornaya's position is that, in the interests of conserving the parties' and judicial resources, discovery should not begin until after resolution of the Defendants' motion(s) to dismiss. Assuming such motions will be ruled upon by July 1, 2023, Jornaya proposes the following schedule.

<u>Event</u>	<u>Proposed Deadlines</u>
Discovery Begins	July 1, 2023
Motion to Amend Pleadings and/or Add Parties	July 29, 2023
Deadline to Complete Fact Discovery	March 3, 2024
Plaintiff's Initial Expert Disclosures Due	March 17, 2024
Defendants' Expert Disclosures Due	April 14, 2024
Rebuttal Expert Disclosures Due	April 28, 2024
Complete Expert Discovery	May 19, 2024
Plaintiff to File Motion for Class Certification (and any supporting class-certification expert reports)	June 2, 2024
Defendants to File Opposition to Class Certification (and any rebuttal class-certification expert reports)	June 30, 2024
Plaintiff to File Reply ISO Motion for Class	July 21, 2024

Certification	
Subsequent Case Management Conference	TBD: to be set after a ruling on class certification
File Dispositive Motions	TBD: to be set after a ruling on class certification

#### 18. Trial

The Parties anticipate that a jury trial will take 5 days.

#### 19. Disclosure of Non-party Interested Entities or Persons

Plaintiff's Position: As of the filing of this report, Plaintiff has filed her disclosure of non-party interested entities or persons.

#### Defendants' Position:

*Royal Marketing's Position:* Royal Marketing will file its Disclosure in connection with its response to the First Amended Complaint and as required by F.R.C.P. 26.

*Jornaya's Position:* Jornaya will file its L.R. 3-15 Disclosure prior to the Case Management Conference on March 31, 2023.

#### 20. Professional Conduct

All counsel have reviewed the Guidelines.

#### 21. Other

The parties are not aware of any other matters at this time.

Respectfully submitted,

Dated: March 24, 2023

**LORETTA WILLIAMS**, individually and on behalf of all others similarly situated,

By: /s/ Taylor T. Smith  
One of Plaintiff's Attorneys

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Dated: March 24, 2023

**LEAD INTELLIGENCE, INC. D/B/A  
JORNAYA**

By: /s/ Rebecca C. Harlow

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*Counsel for Jornaya*

1  
2 Dated: March 24, 2023

**DDR MEDIA, LLC d/b/a Royal Marketing  
Group**

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**SIGNATURE CERTIFICATION**

Pursuant to Civil L.R. 5-1(i)(3) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to counsel for Defendant and that I have obtained authorization to affix his or her electronic signature to this document.

By: /s/ Taylor T. Smith  
Taylor T. Smith

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above papers was served upon counsel of record by filing such papers via the Court's ECF system on March 24, 2023.

/s/ Taylor T. Smith